

Sacramento, CA

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

ALLIED WASTE SERVICES OF NORTH  
AMERICA, LLC d/b/a ALLIED WASTE  
SERVICES OF SACRAMENTO AND  
REPUBLIC SERVICES OF SACRAMENTO  
Employer

and

Case 20-RC-133841

INTERNATIONAL UNION OF OPERATING  
ENGINEERS, STATIONARY ENGINEERS,  
LOCAL 39, AFL-CIO

Petitioner

ORDER

Employer's request for special permission to appeal from the Regional Director's determination to hold a mail ballot election is granted.<sup>1</sup> Because the Regional Director did not abuse his discretion, the appeal is denied on the merits.<sup>2</sup>

KENT Y. HIROZAWA, MEMBER

HARRY I. JOHNSON, MEMBER

NANCY SCHIFFER, MEMBER

Dated, Washington, D.C., September 23, 2014

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<sup>1</sup> Although the document filed by the Employer is entitled "Special Appeal and Request for Review," we have treated it as a request for special permission to appeal the Regional Director's determination inasmuch as the determination was not contained in the Decision and Direction of Election.

We find that the Regional Director did not abuse his discretion in directing a mail-ballot election. His primary consideration was the scattered status of the voting employees due to their staggered work schedules. This was entirely appropriate; all other pertinent considerations are secondary. See *San Diego Gas & Electric*, 325 NLRB 1143, 1145 (1998). Finally, to the extent that the Employer's appeal relies on an attached affidavit addressing the "scatter" issue, we note that relevant information contained in the affidavit had not been presented to the Regional Director at the time he made his determination. Even considering that affidavit in its entirety, however, we would reach the same conclusion, that the Regional Director did not abuse his discretion.

<sup>2</sup> Member Johnson would grant the appeal on the merits. Here, the Regional Director set forth no specific facts of actual hardship to the Region in that a 100-mile deployment of a Board agent over two days is not a hardship, the Employer and Union both agree that a manual ballot would serve the interest of full employee election participation, and 69 employees — a clear majority of the unit — even submitted a petition to the Board in favor of a manual ballot. Respectfully, he believes there are ample grounds to grant the appeal.